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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,677	03/30/2004	Arvin Floyd Liester	AL0001	3557
36489	7590	12/27/2005		
LEYENDECKER LEMIRE & DALEY, LLC C/O PORTFOLIO IP P.O BOX 52057 MINNEAPOLIS, MN 55402			EXAMINER DONNELLY, JEROME W	
			ART UNIT	PAPER NUMBER
			3764	
DATE MAILED: 12/27/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/812,677

Applicant(s)

LIESTER, ARVIN FLOYD

Examiner

Jerome W. Donnelly

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) \_\_\_\_ is/are allowed. 16-20
- 6) ☒ Claim(s) \_\_\_\_ is/are rejected. 1, 4, 9-15 and 21
- 7) ☒ Claim(s) \_\_\_\_ is/are objected to. 23, 36, 7, 8
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

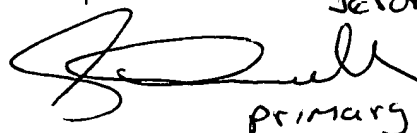
- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Jerome Donnelly

  
primary

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

Art Unit: 3764

Claims 2, 3, 5, 6, 7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 16-20 are allowed.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 9, 15 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith.

Smith discloses an exerciser comprising: a first member in the form of a handle (having weight), a rope having first and second ends including a first handgrip attached said first end of said rope, a first T-shaped cylindrical member as shown in fig. 2, with an exterior surface around which said rope is wrapped and a structural support (36) having a lip (38).

In regard to claim 21, Smith is disclosed as being hollow T-shaped cylindrical member.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Potter.

Smith discloses the device of claim 1, absent the teaching of manufacturing his device of Copper.

Art Unit: 3764

Potter teaches that it is known to manufacture frictional brackets of Copper (see col. 6 line 50).

In view of the above, it would have been obvious to manufacture the device of Smith to include Copper.

Claims 9, 10, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Blanes.

In regard to claims 9 and 10 Blanes discloses a device comprising: first weights (34) and a grip, a cylindrical member (12) having an exterior surface around which the rope is rapped, a structural support (22, 26) being coupled with the cylindrical member, said support including lips (22) and said lips being configured to brace against molding surrounding a doorway. Each mounting piece adapted to couple with the cylindrical member, through an intermediate assembly (25, 26) with the cylindrical member extending (but not attached) between first and second doorway mounting pieces.

In regard to claim 11, the intermediate assembly (25, 26) is considered as the connecting member.

In regard to claim 12, note the bolts (19) and nuts 13 and 21, of Blanes (fig. 3).

Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blanes in view of Zito.

Blanes discloses a device comprising a weight (34).

Blanes however does not disclose his weights as being sand filled containers.

Zito teaches using sand filled containers as his variable weight means.

Art Unit: 3764

Given the above teaching the examiner notes that it would have been obvious as an alternate weight means in the art to substitute a weight means such as Zito (41) for weight means similar to means (34) of Blanes.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

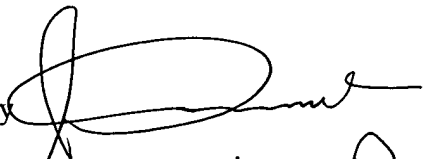
Note the overall device of Mossman and Lake.

Note the resistance features of Evans.

Note the T-shaped bracket of Ciampa.

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571) 272-4975.

Jerome Donnelly



Jerome Donnelly  
Primary